



Title 33 Revision Commission **REPORT**

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COMMISSION DELIVERS RECOMMENDATIONS TO THE GOVERNOR

The Commission appointed by Governor Sundquist in late 1998 to recommend revisions to Title 33 concluded its task in January. The project was concluded on time and within budget. The final report and recommendations were delivered to the Governor on January 26, 2000. The Governor expressed his appreciation for the Commission's work and pledged his support for the recommendations with the legislature. Subsequently in his State of the State address, the Governor identified the revision of Title 33 in his legislative initiatives for this year.

At its final monthly meeting the Commission reviewed and approved each chapter of the drafted legislation as well as other related materials. The results are as follows.

CHAPTER 1

There were very few changes to this chapter. Requirements for MHDD issues in disaster planning have been included in the provisions for interagency agreements. "Responsible relative" was clarified as the person responsible for costs of services.

CHAPTER 2

The Commission agreed that standards to be set by the Department are to require quality services of all providers. Upon further review, it was recommended that the term "basic quality" standards be used for the requirements of all providers; that the provisions permit the Department to set higher standards than the basic quality standards for organizations and agencies with which it contracts. The licensure rules also reflect that the Department may require higher standards of contractors. The term "basic quality" conveys the Commission's expectation of all providers to meet standards without implying that the standards are only minimal. There remains a requirement for one unannounced life safety and environmental inspection of each licensed service or facility yearly.

CHAPTER 3

The Commission clarified provisions that a person with developmental disabilities may only be put in "time out" as part

of an approved plan. New provisions for surrogate decision-making have been placed in this chapter. If the process works over time, it is possible that the provisions would be broadened, giving the Department authorization to prescribe a uniform assessment process to determine if a person with developmental disabilities lacks capacity to make dental and medical decisions. The provisions offer providers some protection against liability. To be a surrogate the person must be knowledgeable about the developmental disability and the recipient's condition, actively involved in the recipient's life, willing to and capable of making decisions in the person's best interest, and have no conflict of interest.

CHAPTER 4

There were no substantive changes made to the final draft recommendations in this chapter, which focuses on the rights of persons in residential settings.

CHAPTER 5

The Commission decided that conflict resolution procedures should be in departmental rules as opposed to inclusion in the code. The state Family Support Council is to retain its responsibility to resolve grievances in that program.

Finally in this chapter, the Commission decided that, under specific conditions of confirmed allegations of violations of persons' rights, the Department may review the appropriateness of admissions to privately or publicly funded residential facilities for all people, not just those with developmental disabilities due to mental impairment.

CHAPTER 6

The Commission affirmed that the Department must identify and serve people with severe mental illness, and it is to fund and maintain an array of appropriate services through Medicaid, TennCare and any other public dollars.

Regarding one option for involuntary hospitalization, for a person who is already at the hospital, a second certificate is to be obtained within 12 hours. However, treatment may not be imposed involuntarily before the second certificate is issued because the person has been only conditionally admitted.



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CHAPTER 7

There were no changes made to this chapter, and it was accepted as is.

CHAPTER 8

The Commission endorsed language stating that families and children are most responsible for determining their needs and shall be included appropriately in all aspects of planning for and providing services and supports. It directed that the same concept be incorporated into the new provisions for interagency planning at the local level.

CHAPTER 9

There were no changes or additions to this chapter containing the interstate compact, and it was accepted as is.

ACCESS TO TITLE 33

Those who wish to review the complete report and recommendations may visit our web site at <http://www.state.tn.us/mental>. Comments are welcome. The recommendations have been introduced as SB 3076/HB 3004* and may be tracked at the legislative site at http://www.legislature.state.tn.us/bills/101gathm/101_BILL/HB3004.pdf.

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